

1.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Statesville Division**

Case No. 5:06-cv-00140

VISTATEK PRODUTOS OTICOS LTDA.,

Plaintiff,

vs.

CYTOSOL OPHTHALMICS, INC., d/b/a
CYTOSOL OPHTHALMICS – LENOIR, INC.,
North Carolina corporation,

Defendant.

**ORDER ENTERING DEFAULT
JUDGMENT**

THIS MATTER came before this Court upon the Motion of Plaintiff Vistatek Produtos Oticos, Ltda. (“Vistatek”) for Entry of Default Judgment, Affidavit of Jose Roberto Alegre, and Memorandum of Law in Support of Motion for Default Judgment, filed June 2007. For the reasons stated herein, Plaintiff’s motion will be granted and judgment will be entered on behalf of Plaintiff and against Defendant.

THE COURT, having reviewed the pleadings and legal memoranda filed in this matter, and having considered argument of counsel, finds:

1. That Vistatek provided proof of personal service of the Summons and Complaint;
2. That Vistatek has provided competent evidence that Defendant, Cytosol Ophthalmics, Inc., d/b/a Cytosol Ophthalmics – Lenoir, Inc., failed to plead or otherwise defend within the time allowed by the Federal Rules of Civil Procedure;
3. That Vistatek moved for entry of default;
4. That Vistatek provided sufficient factual allegations and legal authority to support a finding of liability against Defendant on Counts I through IV of the Complaint;

5. That Defendant failed to file any response to the instant motion and supporting affidavit;

6. That Vistatek is entitled to recover its stated actual damages; and

7. That Defendant's failure to plead or otherwise defend within the time allowed by the Federal Rules of Civil Procedure warrants entry of this Default Judgment.

NOW THEREFORE, AND FOR GOOD CAUSE SHOWN, IT IS ADJUDGED, ORDERED, AND DECREED:

1. The Defendant shall pay the Plaintiff the sum of \$137,413.62, the amount of actual damages stated in the Affidavit of Jose Roberto Alegre filed July 2007.

2. The Defendant shall pay the Plaintiff the sum of \$10,076.89 in prejudgment interest accruing from the date of the breach, August 1, 2006.

3. The Clerk is directed to send copies of this Default Judgment to counsel for Plaintiff and to the Defendant at the following address:

Cytosol Ophthalmics – Lenoir, Inc.
c/o its Registered Agent
Mr. Courtney Lewis
P.O. Box 1408
Lenoir, North Carolina 28645

SO ADJUDGED, ORDERED AND DECREED.

Signed: October 11, 2007



Richard L. Voorhees
United States District Judge

